



County of Los Angeles
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Chief Administrative Officer

August 18, 2003

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From: David E. Janssen
Chief Administrative Officer

STATE LEGISLATIVE UPDATE

Pursuit of County Position on Legislation

AB 578 (Leno), as amended on July 3, 2003, would create the Electronic Recording Delivery System Act of 2003 which would authorize counties, upon approval of their Board of Supervisors and certification by the Attorney General (AG), to record: 1) real property documents through an electronic delivery system in the form of a "digitized electronic record" (a scanned image of the original paper document); and 2) an instrument of reconveyance, a substitution of trustee, or an assignment of deed of trust in the form of a "digital electronic record" (a record containing information that is created, generated, sent, communicated, received, or stored by purely electronic means, but not created in paper form). AB 578 would also create a pilot project to allow 12 counties (including Los Angeles) to record any real property document through a digital electronic record. The measure has an urgency clause.

Orange and San Bernardino Counties have had the option to file title company documents electronically since 1997 via a State pilot project. AB 578 would expand this option to all 58 counties, and give 12 counties the authority to record any real property document by purely electronic means. Counties that establish a system must pay for the direct cost of regulation and oversight by the AG but are authorized to impose a fee: 1) of up to \$1 for each instrument that is recorded by the county; 2) upon any vendor seeking approval of software and other services as part of an electronic recording delivery system; and 3) upon any person seeking approval as an authorized submitter of electronic records.

During the last eight months, the County Recorders Association of California, the Los Angeles County District Attorney's Office, the California Association of Realtors, the California Mortgage Bankers Association, and Fannie Mae have collaborated to produce an e-recording bill that addresses all of the stakeholders' concerns, such as sufficient and effective security precautions. As a result, AB 578 contains a number of important provisions for consumer protection and security, including:

- Certification of a system by the AG before it is operational;
- An independent evaluation and testing by security experts;
- Fingerprinting and background checks of authorized staff with access to the e-recording system, and those auditors that test it;
- Regulations to be developed by the AG to provide for the oversight of e-recording systems and county records;
- Suspension or termination of any e-recording system when fraud occurs; and
- An early fraud notification system whereby the owner of record in the county tax records would be notified of changes in ownership of the property so that fraud can be detected at an early date.

The July 3, 2003 amendments addressed the outstanding security concerns of the various stakeholders.

County recorders would have to follow strict guidelines when considering whether to approve an entity to submit electronic documents. AB 578 also restricts the authority to submit electronically recorded real property documents to local, state or federal government entities, title insurers or underwritten title companies, and specified institutional lenders.

The Registrar-Recorder/County-Clerk (RR/CC) indicates that AB 578 is consistent with the Department's existing e-recording system which transmits tax lien data from both the California Franchise Tax Board (FTB) and the County's Treasurer and Tax Collector (TTC). In an August 2, 2002 memo to the Board, the RR/CC indicated the Department had successfully e-recorded 9,884 FTB liens and 12,106 TTC liens. The RR/CC stated that the benefits of filing these documents electronically include greater accuracy and a 60 percent reduction in processing time by staff, faster return of the document to the lien agency, and the elimination of the paper previously used to transmit the information with its inherent risks of loss or damage to the individual paper documents.

The RR/CC states that implementation of initial electronic document recording has helped the Department build the knowledge necessary to electronically record real property documents as authorized by AB 578. The Department expects to realize the same efficiencies with real property documents as it has with tax liens and, therefore, is supportive of AB 578.

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The District Attorney's office indicates that AB 578 contains sufficient fraud prevention provisions and is supportive of AB 578. County Counsel and the Chief Information Office have also reviewed the bill and are supportive as well.

Support for AB 578 is consistent with the existing tax lien data e-recording system in the RR/CC office and the Department's strategic plan goal numbers one and five which call for "the use of evolving technology and best management practices to continuously compress record processing times in all three RR/CC functional areas and ensure safeguards are in place to protect against fraudulent creation and use of public records".

Support for AB 578 is also consistent with Board action of August 6, 2002 instructing the Chief Information Office, Director of Personnel and the Registrar-Recorder/County Clerk to review various ongoing e-documenting/electronic document management system projects that might be used as a model for improved efficiency within the County. **Therefore, our Sacramento advocates will pursue support of AB 578.** This measure is currently set for hearing on August 19, 2003 in the Senate Judiciary Committee. The bill has passed all Assembly Committees and the Assembly Floor without any "no" votes.

We will continue to keep you advised.

DEJ:GK
MAL:JR:EW:ib

c: Executive Officer, Board of Supervisors
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